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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF MONTANA
MISSOULA DIVISION**

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| ROBIN MORTON, Plaintiff, vs. UNITED STATES OF AMERICA, Defendants. | Case No. 9:15-CV-_____ COMPLAINT (Negligence) |
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COMES NOW Plaintiff, Robin Morton, for his causes of action against
Defendant alleges, based on information and belief:

JURISDICTION & VENUE

1. This action is brought pursuant to the Federal Tort Claims Act
(FTCA), 28 U.S.C. §§ 1346(b), 2671 *et seq.*, against the United States of America,

which vests exclusive subject matter jurisdiction of Federal Tort Claims litigation in the Federal District Court.

2. Venue is proper in the United States District Court for the District of Montana, Missoula Division, pursuant to 28 U.S.C. §§1391(b)(1) and/or 1391(b)(2), as well as 28 U.S.C. § 1391(e)(1), because the United States is a defendant.

PARTIES

3. Plaintiff is a resident of Flathead County, Montana.

4. At all relevant times, the defendant, the United States of America, acted through its agency, the United States Department of Energy, Bonneville Power Administration.

STATUTORY BASIS OF LIABILITY AGAINST THE UNITED STATES OF AMERICA

5. This case is brought against the United States of America pursuant to 28 U.S.C. § 2671 *et seq.*, commonly referred to as the “Federal Tort Claims Act.” Liability of the United States is predicated specifically on 28 U.S.C. §§ 1346(b)(1) and 2674 because the personal injuries and resulting damages that form the basis of this complaint were proximately caused by the negligence, wrongful acts and/or omissions of employees of the United States of America through its agency, the

United States Department of Energy, Bonneville Power Administration. The employee was acting within the course and scope of his office or employment, under circumstances where the United States of America, if a private person, would be liable to the Plaintiff in the same manner and to the same extent as a private individual under the laws of the State of Montana.

6. Pursuant to 28 U.S.C. § 2675, this claim was presented to the appropriate agency of Defendant, the United States of America, namely the United States Department of Energy, Bonneville Power Administration on January 6, 2014, for the claims of Plaintiff Robin Morton. General counsel for the Department of Energy formally denied the claim on February 13, 2015.

**FIRST CAUSE OF ACTION – NEGLIGENCE
(Against Defendant, United States of America)**

7. Plaintiff incorporates by reference each and every prior and subsequent allegation as though fully set forth herein.

8. On or about July 2, 2014, Plaintiff was struck by a vehicle owned by Bonneville Power Administration that was operated by its agent, John Wesley.

9. The tort was committed in Flathead County, Montana.

10. As a proximate cause of Defendant's negligence, Plaintiff incurred physical injury to his person, has and will suffer pain of body and mind, has and

will incur expenses for medical attention, has and will suffer losses of wage and income and has lost his ability to enjoy an established course of life.

WHEREFORE, Plaintiff demands judgment from Defendant as follows;

1. For general, special and personal property damages according to proof;
2. For pre-judgment and post-judgment interest and costs of this action;
3. For such other relief as the Court deems just and equitable.

DATED this 4th day of March, 2015.

KAUFMAN VIDAL HILEMAN ELLINGSON P.C.

By: /s/ David G. Tennant
David G. Tennant
Attorneys for Plaintiff